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In re Application of:	:	
BISCHOF, Markus, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/562,234	:	
PCT No.: PCT/EP2004/004827	:	
International Filing Date: 06 May 2004	:	
Priority Date: 25 June 2003	:	
Atty Docket No.: 3926.222	:	
For: METHOD FOR TRIGGERING	:	
RADICAL POLYMERIZATION	:	
REACTIONS	:	

This decision is issued in response to the "Petition To Withdraw Holding Of Abandonment" filed 24 October 2007. No petition fee is required.

BACKGROUND

On 06 May 2004, applicants filed international application PCT/EP2004/004827. The international application claimed a priority date of 06 May 2004, and it designated the United States. On 06 January 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for entry into the U.S. national stage and submission of the basic national fee was thirty months from the priority date, i.e., 25 December 2005.

On 21 December 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 04 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 10 September 2007, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a timely response to the Notification Of Missing Requirements.

On 24 October 2007, applicants filed the Petition To Withdraw Holding Of Abandonment considered herein. The petition asserts that, on 16 October 2007, applicants filed via facsimile a timely response to the Notification Of Missing Requirements that included a fully

executed declaration. Copies of the materials purportedly filed on 16 October 2007, and the facsimile confirmation report for such transmission, are included with the petition.

DISCUSSION

The present petition states that a "Response To Notice To File Missing Parts" including two executed declarations was filed by facsimile on 16 October 2006. A copy of the materials purportedly filed on 16 October 2006, as well as the "Confirmation Report" generated by applicants' facsimile machine with respect to this submission, are included with the petition.

The materials purportedly filed on 16 October 2006 include: (1) a "Transmittal Form" that identifies the present application, itemizes the attached materials (including the executed declaration), and bears a "Certificate Of Transmission/Filing" dated 16 October 2006 and executed by Stephan A. Pendorf; (2) a two-page document entitled "Response To Notice To File Missing Parts" that identifies the present application, itemizes the accompanying materials (including the executed declaration), and bears a "Certificate Under 37 CFR 1.8(a)" dated 16 October 2006 and executed by Stephen A. Pendorf; (3) two executed declarations (each two-pages); a copy of the Notification Of Missing Requirements (two-pages); and a "Fax Cover Sheet."

37 CFR 1.8(b) states the following:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

With regard to item (1) above, the present petition was promptly filed.

With regard to item (2) above, the present petition includes a copy of the previously transmitted correspondence which, as noted above, bears a certificate of transmission.

With regard to item (3) above, the present petition includes a copy of the sending unit's report confirming transmission to the USPTO facsimile number of a ten-page submission in the present application on 16 October 2006, and the petition is signed by Stephan A. Pendorf, the same person who signed the certificates of transmission contained in the materials filed 16

October 2006 (and a person who would therefore be presumed to have personal knowledge of such transmissions). The statements in the petition, in combination with the facsimile confirmation report, satisfy the requirements of item (3).

Based on the above, the present petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the materials accompanying the present petition (including the executed declarations) are appropriately treated, for purposes of timeliness, as having been filed on 16 October 2006 as a timely response to the Notification of Missing Requirements mailed 04 October 2006. It is noted that, for all other purposes, these materials will be treated as having been filed on 24 October 2007, the filing date of the present petition (see 37 CFR 1.8(a)).

The Notification of Abandonment mailed 24 October 2007, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements mailed 04 October 2007, is appropriately vacated.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

Pursuant to 37 CFR 1.8, for purposes of timeliness, the materials accompanying the present petition, including the executed declarations, are treated as having been submitted on 16 October 2006 as a timely response to the Notification Of Missing Requirements mailed 04 October 2006.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 24 October 2007 is hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 24 October 2007.



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